

Senator Lincoln Fillmore proposes the following substitute bill:

STUDENTS WITH DISABILITIES FUNDING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to provisions related to funding for students with disabilities.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education (state board) to:
 - annually review standards and guidelines related to establishing disability classifications;
 - ensure the standards and guidelines provide school districts and charter schools flexibility to respond to the needs of students with disabilities; and
 - distribute certain special education funds in accordance with state board rules to provide for intensive services for high cost students with disabilities;
- ▶ permits disability program money to be used for facilities construction and alteration under certain circumstances;
- ▶ amends a formula related to add-on weighted pupil units for students with disabilities;
- ▶ repeals the Intensive Services Special Education Pilot Program;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.



Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-307, as last amended by Laws of Utah 2020, Chapter 408

ENACTS:

53F-2-315, Utah Code Annotated 1953

REPEALS:

53F-2-420, as enacted by Laws of Utah 2021, Chapter 307

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **53F-2-307** is amended to read:**53F-2-307. Weighted pupil units for programs for students with disabilities --****Local school board allocation.**(1) As used in this section:(a) "Necessary cost" means a cost that is needed to provide special education and related services to students with disabilities.(b) "Reasonable cost" means a cost that, in nature and amount, does not exceed an amount that a prudent person would incur under the circumstances prevailing at the time the decision was made to incur the cost.

[(+)] (2) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[(2)] (3) Disability program money allocated to school districts or charter schools is restricted and shall be spent for the education of students with disabilities [~~but may include expenditures for~~].(4) Notwithstanding Subsection (3), disability program money allocated to school districts or charter schools may be expended for:

(a) approved programs of services conducted for certified instructional personnel who

have students with disabilities in their classes[-]; or

(b) constructing facilities or altering existing facilities if:

(i) the costs are necessary costs and reasonable costs;

(ii) the costs are not for the general purpose of bringing facilities into compliance with:

(A) Section 504 of the Rehabilitation Act of 1973; or

(B) the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.;

(iii) the construction or alteration meets the needs of one or more students with disabilities; and

(iv) the state board approves the expenditure in accordance with rules the state board makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(3)]~~ (5) The state board shall establish ~~[and strictly interpret]~~ definitions and provide standards for determining which students have disabilities and shall assist school districts and charter schools in determining the services that should be provided to students with disabilities.

~~[(4) Each year the state board shall evaluate]~~

(6) The state board shall annually evaluate, and amend as needed, the standards and guidelines that establish the identifying criteria for disability classifications to [assure strict compliance with those standards by the school districts and charter schools:] ensure that school districts and charter schools:

(a) comply with the standards and guidelines; and

(b) have flexibility to respond to the needs of students with disabilities.

~~[(5)]~~ (7) (a) Money appropriated to the state board for add-on WPU for students with disabilities enrolled in regular programs shall be allocated to school districts and charter schools as provided in this Subsection ~~[(5)]~~ (7).

(b) The state board shall use a school district's or charter school's average number of special education add-on weighted pupil units determined by ~~[the previous five year's]~~ the prior year's average daily membership plus growth and the preceding four years' average daily membership data as a foundation for the special education add-on appropriation.

(c) The growth factor described in Subsection (7)(b) is the percentage change in total enrollment of kindergarten through grade 12 students on the first school day of October in the current school year as compared to the total enrollment of kindergarten through grade 12 students on the first school day of October in the previous school year.

[~~(e)~~] (d) A school district's or charter school's special education add-on WPU's for the current year may not be less than the foundation special education add-on WPU's described in Subsection (7)(b).

[~~(d)~~] (e) Growth WPU's shall be added to the prior year special education add-on WPU's, and growth WPU's shall be determined as follows:

(i) The special education student growth factor is calculated by comparing [S-3] total special education [ADM of two years] average daily membership of one year previous to the current year to the [S-3] total special education [ADM three] average daily membership two years previous to the current year[, ~~not to exceed the official October total school district growth factor from the prior year~~].

(ii) When calculating and applying the growth factor, a school district's [S-3] total special education ADM for a given year is limited to [~~12.18%~~] the following percentage of the school district's [S-3] total student ADM for the same year[:]:

(A) for a school district in a county of the first, second, or third class, 14%; and

(B) for a school district in a county of the fourth, fifth, or sixth class, 20%.

(iii) Growth ADMs are calculated by applying the growth factor to the [S-3] total special education [ADM of two years] average daily membership of one year previous to the current year.

(iv) Growth ADMs for each school district or each charter school are multiplied by [~~1.53~~] 1.00 weighted pupil units and added to the prior year special education add-on WPU to determine each school district's or each charter school's total allocation.

[~~(6)~~] (8) If money appropriated under this chapter for programs for students with disabilities does not meet the costs of school districts and charter schools for those programs, each school district and each charter school shall first receive the amount generated for each student with a disability under the basic program.

Section 2. Section **53F-2-315** is enacted to read:

53F-2-315. Funding for intensive special education costs.

(1) As used in this section:

(a) "Eligible LEA" means an LEA that does not have an unused balance of state restricted funds to use to fund high cost students with disabilities.

(b) "Initiate rulemaking proceedings" means the same as that term is defined in Section

[63G-3-301.](#)

(c) "Special education add-on appropriation" means the money appropriated to the state board for add-on WPU's for students with disabilities.

(2) (a) On or before February 1, 2023, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a distribution formula to allocate 3% of the special education add-on appropriation to eligible LEAs for the eligible LEA to use to fund high cost students with disabilities.

(b) Beginning with the 2023-24 school year, the state board shall allocate the money described in Subsection (2)(a), to an eligible LEA in accordance with the rules described in Subsection (2)(a).

(3) Before the state board initiates rulemaking proceedings, the state board shall present a rule proposed under Subsection (2)(a), to the Public Education Appropriations Subcommittee or the Education Interim Committee.

Section 3. Repealer.

This bill repeals:

Section [53F-2-420](#), **Intensive Services Special Education Pilot Program.**